

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JAMES E. SMITH,

No. C 08-1157 SI (pr)

Petitioner,

**ORDER DENYING CERTIFICATE  
OF APPEALABILITY**

v.

HEDGPETH, warden,

Respondent.

Petitioner filed a notice of appeal, which the court construes as also requesting a certificate of appealability. See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). The request for a certificate of appealability is DENIED because petitioner has not demonstrated that "jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." Slack v. McDaniel, 529 U.S. 473, 484 (2000). The clerk shall forward to the court of appeals the case file with this order. See United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997).

IT IS SO ORDERED.

DATED: August 31, 2008



SUSAN ILLSTON  
United States District Judge